

have a right to remove such improvements under the terms of their tenancy. Such payment will be made only upon the condition that all right, title, and interest of the tenant in such improvements shall be transferred to TVA and upon the further condition that the owner of the real property being acquired shall execute a disclaimer of any interest in said improvements.

[38 FR 3592, Feb. 8, 1973. Redesignated at 52 FR 48019, Dec. 17, 1987]

#### § 1306.6 Expense of transfer of title and proration of taxes.

In connection with the acquisition of real property by TVA:

(a) TVA will, to the extent it deems fair and reasonable, bear all expenses incidental to the transfer of title to the United States, including penalty costs for the prepayment of any valid pre-existing recorded mortgage;

(b) Real property taxes shall be prorated to relieve the seller from paying taxes which are allocable to a period subsequent to vesting of title in the United States or the date of possession, whichever is earlier.

[38 FR 3592, Feb. 8, 1973. Redesignated at 52 FR 48019, Dec. 17, 1987]

### Subpart B [Reserved]

## PART 1307—NONDISCRIMINATION WITH RESPECT TO HANDICAP

Sec.

- 1307.1 Definitions.
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- 1307.12 Decisions and notices.
- 1307.13 Effect on other regulations; supervision and coordination.

AUTHORITY: TVA Act, 48 Stat. 58 (1933) as amended, 16 U.S.C. 831-831dd (1976) and sec. 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, as amended, 29 U.S.C. 794 (1976; Supp. II 1978).

SOURCE: 45 FR 22895, Apr. 4, 1980, unless otherwise noted.

#### § 1307.1 Definitions.

As used in this part, the following terms have the stated meanings, unless the context otherwise requires:

(a) *Section 504* means section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, as amended, 29 U.S.C. 794.

(b) *Recipient* means any individual, any State or its political subdivision, or any instrumentality of either, and any public or private agency, institution, organization, or other entity to which financial assistance is extended by TVA directly or through another recipient, including any successor, assignee, or transferee of a recipient as hereinafter set forth, but excluding the ultimate beneficiary of the assistance.

(c) *Financial assistance* means the grant or loan of money; the donation of real or personal property; the sale, lease, or license of real or personal property for a consideration which is nominal or reduced for the purpose of assisting the recipient; the waiver of charges which would normally be made, in order to assist the recipient; the entry into a contract where a purpose is to give financial assistance to the contracting party; and similar transactions.

(d) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(e) *Federal agency* means any department, agency, or instrumentality of the Government of the United States, other than TVA.

(f) *Handicapped person* means any individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment, as further defined below, except that, as related to employment, the term *handicapped individual* does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current drug or alcohol abuse, would constitute a direct threat to property or the safety of others:

(1) *Physical or mental impairment* means (i) any physiological disorder or

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condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; and drug addiction and alcoholism.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a physical or mental impairment that substantially limits one or more major life activities.

(4) *Is regarded as having such an impairment* means (i) has a physical or mental impairment that does not substantially limit major life activities but which is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward the impairment; or (iii) does not have a physical or mental impairment as defined in paragraph (f)(1) of this section but is treated by a recipient as having such an impairment.

(g) *Qualified handicapped person* means (1) with respect to employment, a handicapped person (except an alcoholic or drug abuser as defined in paragraph (f) of this section), who, with reasonable accommodation, can perform the essential functions of the job in question and (2) with respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(h) *Historic property* means an architecturally, historically, or cul-

turally significant property listed in or eligible for listing in the National Register of Historic Places, or a property officially designated as having architectural, historic, or cultural significance under a statute of the appropriate State or local governmental body.

(i) *Building alterations* means those changes to existing conditions and equipment of a building which do not involve any structural changes, but which typically improve and upgrade a building, such as site improvements and alterations to stairways, doors, toilets or elevators.

(j) *Structural changes* shall mean those changes which alter the structure of a building, including but not limited to its load bearing walls and all types of post and beam systems in wood, steel, iron or concrete.

(k) *Program or activity* means all of the operations of any entity described in paragraphs (k)(1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (k)(1), (2), or (3) of this section.

[45 FR 22895, Apr. 4, 1980, as amended at 68 FR 51356, Aug. 26, 2003]

#### § 1307.2 Purpose.

The purpose of this part is to effectuate section 504 to the end that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from TVA.

#### § 1307.3 Application.

This part applies to any program or activity for which financial assistance is provided by TVA, except that this part does not apply to any (a) TVA procurement contracts, contracts with other Federal agencies, or contracts of insurance or guaranty, (b) money paid, property transferred, or other assistance extended to a recipient before the effective date of this part, or (c) assistance to any individual or entity which is the ultimate beneficiary. Nothing in paragraph (b) of this section exempts any recipient of financial assistance under a contract in effect on the effective date of this part from compliance with this part.

[45 FR 22895, Apr. 4, 1980, as amended at 68 FR 51356, Aug. 26, 2003]

#### § 1307.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person, shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity to which this part applies.

(b) *Specific discriminatory actions.* (1) A recipient to which this part applies shall not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or services available under the program or activity;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others under the program or activity;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others under the program or activity;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others, unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others under the program or activity;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or entity that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program or activity;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards with respect to the program or activity; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment under the program of any right, privilege, advantage, or opportunity enjoyed by others under the program or activity.

(2) A recipient shall not deny a qualified handicapped person the opportunity to participate under the program or activity in activities that are not separate or different, despite the existence of permissibly separate or different aid, benefits, or services.

(3) A recipient shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped